

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

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|--------------------------------|---|---|
| PATRICIA J. GIBSON |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CIVIL ACTION NO.: 03-06cv974-MEF-TFM |
| |) | |
| WESTPOINT STEVENS, INC. |) | |
| et al., |) | |
| Defendants. |) | |

PLAINTIFF'S MOTION TO ALTER, AMEND OR VACATE ORDER

The Plaintiff, by and through her attorney of record, respectfully submits this Motion to Alter, Amend or Vacate the Court's Order issued on 1 May 2007 (Doc. #21), granting the Defendants' Motion to Compel (Doc. #18), with the Defendants' Memorandum Supporting it Motion to Compel (Doc. #19). As grounds, the Plaintiff offers the following for the Court's consideration:

1. That the Plaintiff's attorney did not have access to her computer files until the day following the Court's deadline on 30 April 2007, issued in the Court's Show Cause Order dated 24 April 2007 (Doc. #20). That most of the grounds herein would have been submitted to show cause in a timely manner but for the lack of computer access;

2. That as of this date, the Plaintiff has responded to each of the Defendants' discovery requests as instructed by this Court;

3. That the Plaintiff's attorney had several extenuating circumstances to occur that prevented her from responding within the time allowed prior to the filing of Defendants' Motion and Memorandum. That since January 2007, she has had four family members who became very ill; one of whom is now deceased and two of whom suffered and are still suffering debilitating

conditions (heart attacks and strokes) and who required family involvement that took the Plaintiff's attorney away from her usual work. That the Plaintiff's attorney herself and her husband were out on medical leave during February and March 2007. That the Plaintiff's attorney communicated this to the Defendants' attorney prior to the filing of his Motion and Memorandum;

4. That the Plaintiff's attorney's assistant has been on medical leave all year and no replacement has been employed. That the Plaintiff's attorney has had to rely on temporary help or her own assistance in preparing the discovery responses;

5. That the Plaintiff, who has suffered a foreclosure on her home since this action was initially filed before the Court, has had difficulty in gathering certain information needed to respond to the Defendants' discovery requests. That the Plaintiff's attorney communicated this fact to the Defendants' attorney prior to the filing of his Motion and Memorandum;

6. That the Plaintiff's responses to the Defendants' First Request for Admission include several denials, contrary to the Court's Order deeming each of the requested admissions as admitted. That to allow these requested admissions as admitted will unjustly prejudice the Plaintiff's case. That in the interest of justice, the Plaintiff respectfully requests that the Court withdraw the Plaintiff's responses as admitted;

6. That the Defendants have suffered no harm as a result of the Plaintiff's delay in getting the discovery responses to them;

7. That while reasonable expenses are allowable under the **Rules**,¹ the Plaintiff respectfully requests that this Court will vacate its Order awarding the Defendants' attorneys

¹ Fed. R. Civ. P. 37(a)(4)

those expenses as both the Plaintiff and his attorney's resources are sparse, and that it will be a hardship on both the Plaintiff and her attorney to incur such expenses; and,

8. That, in the alternative to requiring a courtroom hearing on the 14th day of May, 2007, at 10:00 a.m. at the Frank M. Johnson, Jr. United States Courthouse Complex, the Plaintiff respectfully requests that this Court will vacate its Order and to hold the hearing telephonically instead, to aid in minimizing traveling and other costs to be incurred.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff prays that this Honorable Court will consider her Motion to Alter, Amend or Vacate and rule upon the issues accordingly.

Respectfully submitted,

s/Lateefah Muhammad
Lateefah Muhammad (*Ala. Code* MUH001)
ATTORNEY FOR PLAINTIFF

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CERTIFICATE OF SERVICE

I hereby certify that on 8 May 2007, I electronically filed the foregoing Plaintiff's Motion to Alter, Amend or Vacate Order with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: James C. Pennington, Esquire and Fred Suggs, Jr., Esquire, attorneys for Defendants.

s/Lateefah Muhammad
Lateefah Muhammad